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**SUBSTITUTE SENATE BILL 5062**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** Senate Law & Justice (originally sponsored by Senators Kuderer, Hunt, Dhingra, Keiser, Pedersen, Darneille, Saldaña, and Frockt; by request of Attorney General)

1       AN ACT Relating to high capacity magazines; amending RCW  
2 9.41.010; adding a new section to chapter 9.41 RCW; and prescribing  
3 penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5       **Sec. 1.** RCW 9.41.010 and 2019 c 3 s 16 (Initiative Measure No.  
6 1639) are each amended to read as follows:

7       Unless the context clearly requires otherwise, the definitions in  
8 this section apply throughout this chapter.

9       (1) "Antique firearm" means a firearm or replica of a firearm not  
10 designed or redesigned for using rim fire or conventional center fire  
11 ignition with fixed ammunition and manufactured in or before 1898,  
12 including any matchlock, flintlock, percussion cap, or similar type  
13 of ignition system and also any firearm using fixed ammunition  
14 manufactured in or before 1898, for which ammunition is no longer  
15 manufactured in the United States and is not readily available in the  
16 ordinary channels of commercial trade.

17       (2) "Barrel length" means the distance from the bolt face of a  
18 closed action down the length of the axis of the bore to the crown of  
19 the muzzle, or in the case of a barrel with attachments to the end of  
20 any legal device permanently attached to the end of the muzzle.

1 (3) "Bump-fire stock" means a butt stock designed to be attached  
2 to a semiautomatic firearm with the effect of increasing the rate of  
3 fire achievable with the semiautomatic firearm to that of a fully  
4 automatic firearm by using the energy from the recoil of the firearm  
5 to generate reciprocating action that facilitates repeated activation  
6 of the trigger.

7 (4) "Crime of violence" means:

8 (a) Any of the following felonies, as now existing or hereafter  
9 amended: Any felony defined under any law as a class A felony or an  
10 attempt to commit a class A felony, criminal solicitation of or  
11 criminal conspiracy to commit a class A felony, manslaughter in the  
12 first degree, manslaughter in the second degree, indecent liberties  
13 if committed by forcible compulsion, kidnapping in the second degree,  
14 arson in the second degree, assault in the second degree, assault of  
15 a child in the second degree, extortion in the first degree, burglary  
16 in the second degree, residential burglary, and robbery in the second  
17 degree;

18 (b) Any conviction for a felony offense in effect at any time  
19 prior to June 6, 1996, which is comparable to a felony classified as  
20 a crime of violence in (a) of this subsection; and

21 (c) Any federal or out-of-state conviction for an offense  
22 comparable to a felony classified as a crime of violence under (a) or  
23 (b) of this subsection.

24 (5) "Curio or relic" has the same meaning as provided in 27  
25 C.F.R. Sec. 478.11.

26 (6) "Dealer" means a person engaged in the business of selling  
27 firearms at wholesale or retail who has, or is required to have, a  
28 federal firearms license under 18 U.S.C. Sec. 923(a). A person who  
29 does not have, and is not required to have, a federal firearms  
30 license under 18 U.S.C. Sec. 923(a), is not a dealer if that person  
31 makes only occasional sales, exchanges, or purchases of firearms for  
32 the enhancement of a personal collection or for a hobby, or sells all  
33 or part of his or her personal collection of firearms.

34 (7) "Family or household member" means "family" or "household  
35 member" as used in RCW 10.99.020.

36 (8) "Felony" means any felony offense under the laws of this  
37 state or any federal or out-of-state offense comparable to a felony  
38 offense under the laws of this state.

39 (9) "Felony firearm offender" means a person who has previously  
40 been convicted or found not guilty by reason of insanity in this

1 state of any felony firearm offense. A person is not a felony firearm  
2 offender under this chapter if any and all qualifying offenses have  
3 been the subject of an expungement, pardon, annulment, certificate,  
4 or rehabilitation, or other equivalent procedure based on a finding  
5 of the rehabilitation of the person convicted or a pardon, annulment,  
6 or other equivalent procedure based on a finding of innocence.

7 (10) "Felony firearm offense" means:

8 (a) Any felony offense that is a violation of this chapter;

9 (b) A violation of RCW 9A.36.045;

10 (c) A violation of RCW 9A.56.300;

11 (d) A violation of RCW 9A.56.310;

12 (e) Any felony offense if the offender was armed with a firearm  
13 in the commission of the offense.

14 (11) "Firearm" means a weapon or device from which a projectile  
15 or projectiles may be fired by an explosive such as gunpowder.  
16 "Firearm" does not include a flare gun or other pyrotechnic visual  
17 distress signaling device, or a powder-actuated tool or other device  
18 designed solely to be used for construction purposes.

19 (12) "Gun" has the same meaning as firearm.

20 (13) "Law enforcement officer" includes a general authority  
21 Washington peace officer as defined in RCW 10.93.020, or a specially  
22 commissioned Washington peace officer as defined in RCW 10.93.020.  
23 "Law enforcement officer" also includes a limited authority  
24 Washington peace officer as defined in RCW 10.93.020 if such officer  
25 is duly authorized by his or her employer to carry a concealed  
26 pistol.

27 (14) "Lawful permanent resident" has the same meaning afforded a  
28 person "lawfully admitted for permanent residence" in 8 U.S.C. Sec.  
29 1101(a)(20).

30 (15) "Licensed collector" means a person who is federally  
31 licensed under 18 U.S.C. Sec. 923(b).

32 (16) "Licensed dealer" means a person who is federally licensed  
33 under 18 U.S.C. Sec. 923(a).

34 (17) "Loaded" means:

35 (a) There is a cartridge in the chamber of the firearm;

36 (b) Cartridges are in a clip that is locked in place in the  
37 firearm;

38 (c) There is a cartridge in the cylinder of the firearm, if the  
39 firearm is a revolver;

1 (d) There is a cartridge in the tube or magazine that is inserted  
2 in the action; or

3 (e) There is a ball in the barrel and the firearm is capped or  
4 primed if the firearm is a muzzle loader.

5 (18) "Machine gun" means any firearm known as a machine gun,  
6 mechanical rifle, submachine gun, or any other mechanism or  
7 instrument not requiring that the trigger be pressed for each shot  
8 and having a reservoir clip, disc, drum, belt, or other separable  
9 mechanical device for storing, carrying, or supplying ammunition  
10 which can be loaded into the firearm, mechanism, or instrument, and  
11 fired therefrom at the rate of five or more shots per second.

12 (19) "Nonimmigrant alien" means a person defined as such in 8  
13 U.S.C. Sec. 1101(a) (15).

14 (20) "Person" means any individual, corporation, company,  
15 association, firm, partnership, club, organization, society, joint  
16 stock company, or other legal entity.

17 (21) "Pistol" means any firearm with a barrel less than sixteen  
18 inches in length, or is designed to be held and fired by the use of a  
19 single hand.

20 (22) "Rifle" means a weapon designed or redesigned, made or  
21 remade, and intended to be fired from the shoulder and designed or  
22 redesigned, made or remade, and intended to use the energy of the  
23 explosive in a fixed metallic cartridge to fire only a single  
24 projectile through a rifled bore for each single pull of the trigger.

25 (23) "Sale" and "sell" mean the actual approval of the delivery  
26 of a firearm in consideration of payment or promise of payment.

27 (24) "Secure gun storage" means:

28 (a) A locked box, gun safe, or other secure locked storage space  
29 that is designed to prevent unauthorized use or discharge of a  
30 firearm; and

31 (b) The act of keeping an unloaded firearm stored by such means.

32 (25) "Semiautomatic assault rifle" means any rifle which utilizes  
33 a portion of the energy of a firing cartridge to extract the fired  
34 cartridge case and chamber the next round, and which requires a  
35 separate pull of the trigger to fire each cartridge.

36 "Semiautomatic assault rifle" does not include antique firearms,  
37 any firearm that has been made permanently inoperable, or any firearm  
38 that is manually operated by bolt, pump, lever, or slide action.

1 (26) "Serious offense" means any of the following felonies or a  
2 felony attempt to commit any of the following felonies, as now  
3 existing or hereafter amended:

4 (a) Any crime of violence;

5 (b) Any felony violation of the uniform controlled substances  
6 act, chapter 69.50 RCW, that is classified as a class B felony or  
7 that has a maximum term of imprisonment of at least ten years;

8 (c) Child molestation in the second degree;

9 (d) Incest when committed against a child under age fourteen;

10 (e) Indecent liberties;

11 (f) Leading organized crime;

12 (g) Promoting prostitution in the first degree;

13 (h) Rape in the third degree;

14 (i) Drive-by shooting;

15 (j) Sexual exploitation;

16 (k) Vehicular assault, when caused by the operation or driving of  
17 a vehicle by a person while under the influence of intoxicating  
18 liquor or any drug or by the operation or driving of a vehicle in a  
19 reckless manner;

20 (l) Vehicular homicide, when proximately caused by the driving of  
21 any vehicle by any person while under the influence of intoxicating  
22 liquor or any drug as defined by RCW 46.61.502, or by the operation  
23 of any vehicle in a reckless manner;

24 (m) Any other class B felony offense with a finding of sexual  
25 motivation, as "sexual motivation" is defined under RCW 9.94A.030;

26 (n) Any other felony with a deadly weapon verdict under RCW  
27 9.94A.825;

28 (o) Any felony offense in effect at any time prior to June 6,  
29 1996, that is comparable to a serious offense, or any federal or out-  
30 of-state conviction for an offense that under the laws of this state  
31 would be a felony classified as a serious offense; or

32 (p) Any felony conviction under RCW 9.41.115.

33 (27) "Short-barreled rifle" means a rifle having one or more  
34 barrels less than sixteen inches in length and any weapon made from a  
35 rifle by any means of modification if such modified weapon has an  
36 overall length of less than twenty-six inches.

37 (28) "Short-barreled shotgun" means a shotgun having one or more  
38 barrels less than eighteen inches in length and any weapon made from  
39 a shotgun by any means of modification if such modified weapon has an  
40 overall length of less than twenty-six inches.

1 (29) "Shotgun" means a weapon with one or more barrels, designed  
2 or redesigned, made or remade, and intended to be fired from the  
3 shoulder and designed or redesigned, made or remade, and intended to  
4 use the energy of the explosive in a fixed shotgun shell to fire  
5 through a smooth bore either a number of ball shot or a single  
6 projectile for each single pull of the trigger.

7 (30) "Transfer" means the intended delivery of a firearm to  
8 another person without consideration of payment or promise of payment  
9 including, but not limited to, gifts and loans. "Transfer" does not  
10 include the delivery of a firearm owned or leased by an entity  
11 licensed or qualified to do business in the state of Washington to,  
12 or return of such a firearm by, any of that entity's employees or  
13 agents, defined to include volunteers participating in an honor  
14 guard, for lawful purposes in the ordinary course of business.

15 (31) "Unlicensed person" means any person who is not a licensed  
16 dealer under this chapter.

17 (32) "Large capacity magazine" means an ammunition feeding device  
18 with the capacity to accept more than ten rounds of ammunition, or  
19 any conversion kit, part, or combination of parts, from which such a  
20 device can be assembled if those parts are in the possession or under  
21 the control of the same person, but shall not be construed to include  
22 any of the following:

23 (a) An ammunition feeding device that has been permanently  
24 altered so that it cannot accommodate more than ten rounds of  
25 ammunition;

26 (b) A twenty-two caliber tube ammunition feeding device; or

27 (c) A tubular magazine that is contained in a lever-action  
28 firearm.

29 NEW SECTION. Sec. 2. A new section is added to chapter 9.41 RCW  
30 to read as follows:

31 (1) No person in this state may manufacture, possess, distribute,  
32 import, transfer, sell, offer for sale, purchase, or otherwise  
33 transfer any large capacity magazine except as authorized in this  
34 section.

35 (2) Subsection (1) of this section does not apply to any of the  
36 following:

37 (a) The possession of a large capacity magazine by a person who  
38 legally possessed the large capacity magazine on the effective date  
39 of this section, or possession of a large capacity magazine by a

1 person who, on or after the effective date of this section, acquires  
2 possession of the large capacity magazine by operation of law upon  
3 the death of the former owner who was in legal possession of the  
4 large capacity magazine, provided the person in possession of the  
5 large capacity magazine can establish such provenance. A person who  
6 legally possesses a large capacity magazine under this subsection  
7 (2)(a) may not sell or transfer the magazine to any other person in  
8 this state other than to a licensed dealer, to a federally licensed  
9 gunsmith for the purpose of service or repair, or to a law  
10 enforcement agency for the purpose of permanently relinquishing the  
11 large capacity magazine;

12 (b) Any government officer, agent, or employee, member of the  
13 armed forces of the United States or the state of Washington, or law  
14 enforcement officer, to the extent that such person is otherwise  
15 authorized to acquire or possess a large capacity magazine and does  
16 so while acting within the scope of his or her duties;

17 (c) The manufacture, offering for sale, sale, importation, or  
18 transfer of a large capacity magazine by a licensed firearms  
19 manufacturer for the purposes of sale to any branch of the armed  
20 forces of the United States or the state of Washington, or to a law  
21 enforcement agency in this state for use by that agency or its  
22 employees;

23 (d) The possession, offering for sale, sale, importation, or  
24 transfer of a large capacity magazine by a dealer that is properly  
25 licensed under federal and state law for the purpose of sale to any  
26 branch of the armed forces of the United States or the state of  
27 Washington, or to a law enforcement agency in this state for use by  
28 that agency or its employees for law enforcement purposes;

29 (e) The possession, offering for sale, sale, importation, or  
30 transfer of a large capacity magazine by a dealer that is properly  
31 licensed under federal and state law where the dealer acquires the  
32 large capacity magazine from a person legally authorized to possess  
33 or transfer the large capacity magazine under (a) of this subsection  
34 for the purpose of selling or transferring the large capacity  
35 magazine to a person who does not reside in this state;

36 (f) The transfer to and possession of a legally possessed large  
37 capacity magazine by a federally licensed gunsmith for the purposes  
38 of service or repair, and the return of the large capacity magazine  
39 to the lawful owner;

1 (g) The possession, offering for sale, sale, importation, or  
2 transfer of a large capacity magazine for the purpose of permanently  
3 relinquishing it to a law enforcement agency in this state;

4 (h) Any person lawfully competing in a sporting event officially  
5 sanctioned by a nationally recognized organization established in  
6 whole or in part for the purpose of sponsoring sport shooting events;

7 (i) The possession, importation, purchase, or transfer of a large  
8 capacity magazine by marshals, sheriffs, prison or jail wardens or  
9 their deputies, or other law enforcement officers of this or another  
10 state while acting within the scope of their duties, including such  
11 possession while not on duty;

12 (j) The possession of a large capacity magazine by law  
13 enforcement officers retired for service or physical disabilities,  
14 when the large capacity magazine in question was acquired as part of  
15 the officer's separation from service;

16 (k) Members of the armed forces of the United States or of the  
17 national guard or organized services, when on duty;

18 (l) Officers or employees of the United States duly authorized to  
19 possess large capacity magazines;

20 (m) Any persons lawfully engaged in shooting at a duly licensed,  
21 lawfully operated shooting range; or

22 (n) The possession or transfer of a large capacity magazine for  
23 the purpose of permanently relinquishing it to a law enforcement  
24 agency in this state. A large capacity magazine relinquished to a law  
25 enforcement agency under this subsection must be destroyed.

26 (3) In order to continue to possess a large capacity magazine  
27 that was legally possessed on the effective date of this section, as  
28 provided in subsection (2)(a) of this section, the person possessing  
29 the large capacity magazine shall:

30 (a) Store the large capacity magazine in a secure gun storage;  
31 and

32 (b) Possess the large capacity magazine only on property owned or  
33 immediately controlled by the person, or while engaged in the legal  
34 use of the large capacity magazine at a duly licensed firing range,  
35 or while engaged in a lawful outdoor recreational activity such as  
36 hunting, or while traveling to or from either of these locations for  
37 the purpose of engaging in the legal use of the large capacity  
38 magazine, provided that the large capacity magazine is stored  
39 unloaded and in a separate locked container during transport.

1           (4) A person who violates this section is guilty of a gross  
2 misdemeanor punishable under chapter 9A.20 RCW.

--- **END** ---